

JAP:JSR

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

M-10-1236

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UNITED STATES OF AMERICA

- against -

ANDRES GARCIA-HERRAND,
also known as
"Andrea Garcia" and
"Jose Zayes-Alvarez,"

COMPLAINT AND AFFIDAVIT
IN SUPPORT OF APPLICATION
FOR ARREST WARRANT

(T. 8, U.S.C.,
§§ 1326(a) and
1326(b)(1))

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

ANDREW STEINBORN, being duly sworn, deposes and states that he is a Deportation Officer with United States Immigration and Customs Enforcement ("ICE"), duly appointed according to law and acting as such.

On or about June 9, 2009, within the Eastern District of New York and elsewhere, the defendant ANDRES GARCIA-HERRAND, also known as "Andrea Garcia" and "Jose Zayes-Alvarez," an alien who had previously been deported from the United States after a conviction for an felony, was found in the United States without the Secretary of the United States Department of Homeland Security, successor to the Attorney General of the United States, having expressly consented to such alien's applying for admission.

(Title 8, United States Code, Section 1326(b)(1)).

The source of your deponent's information and the grounds for his belief are as follows:^{1/}

1. I am a Deportation Officer with ICE and have been involved in the investigation of numerous cases involving the illegal re-entry of aliens. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the ICE investigative file, including the defendant's criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. On or about July 21, 2010, ICE officials provided the New York State Division of Criminal Justice Services ("NYSDCJS") with a list of aliens who had been previously removed from the United States. ICE requested that NYSDCJS search its records to determine which of these aliens had been arrested by state authorities in New York on a date subsequent to their removal from the United States.

3. On or about August 2, 2010, after receiving the requested information from NYSDCJS, ICE learned that the defendant ANDRES GARCIA-HERRAND, also known as "Andrea Garcia" and "Jose Zayes-Alvarez," had been arrested by the New York City Police Department ("NYPD"), 75th Precinct, in Brooklyn, New York,

^{1/} Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all of the relevant facts and circumstances of which I am aware.

on June 9, 2009. The defendant was arrested on that date and charged with Criminal Possession of a Controlled Substance in the Third Degree in violation of Section 220.16(1) of the New York State Penal Law. The defendant used the name "Jose Zayes-Alvarez" in connection with this arrest.

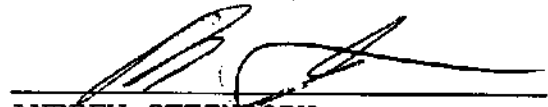
4. According to ICE records, the defendant, a citizen of Dominican Republic, had been previously removed from the United States on November 17, 2004. The defendant used the name Andres Garcia-Herrand in connection with this removal.

5. ICE officials further determined, based on a criminal history report, that on or about January 20, 1993, the defendant had been convicted in Richmond County, New York of Grand Larceny in the Third Degree, in violation of New York Penal Law 155.35, a felony offense. The defendant used the name "Andrea Garcia" in connection with this conviction.

6. An ICE official with fingerprint analysis training compared the fingerprints taken in connection with the defendant's arrest underlying his January 20, 1993 conviction; the fingerprints taken in connection with the defendant's November 17, 2004 removal; and the fingerprints taken in connection with the defendant's June 9, 2009 arrest, and determined that all three sets of fingerprints were made by the same individual.

7. A search of ICE records has revealed that there exists no request by the defendant for permission from the Secretary of the United States Department of Homeland Security, successor to the Attorney General of the United States, to reapply for admission to reenter the United States after removal.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant ANDRES GARCIA-HERRAND, also known as "Andrea Garcia" and "Jose Zayes-Alvarez," so that he may be dealt with according to law.



ANDREW STEINBORN
Deportation Officer
U.S. Immigration and Customs
Enforcement

Sworn to before me this
21st day of October 2010

HONORABLE VIKTOR V. POHORELSKY
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK